UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,219	02/13/2004	Hakan Winbom	4010-37	2504

23117   7590   03/24/2008
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER
VIZVARY, GERALD C

ART UNIT	PAPER NUMBER
3696	

MAIL DATE	DELIVERY MODE
03/24/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
	10/777,219	WINBOM, HAKAN
Office Action Summary	Examiner	Art Unit	
	GERALD C. VIZVARY	3696	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>13 February 2004</u>.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-23</u> is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-23</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a) ☐ All   b) ☐ Some * c) ☐ None of:

   1. ☐ Certified copies of the priority documents have been received.

   2. ☐ Certified copies of the priority documents have been received in Application No. _____.

   3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>6/4/2005 & 8/23/2007</u>.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Introduction

The following is a non-final office action in response to the communications

received on 2/13/2004. Claims 1-23 are now pending in this application.

Information Disclosure Statement

1.   The information disclosure statements (IDS) submitted on 6/14/2005 &

8/23/2007 were considered by the examiner.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described
> as set forth in section 102 of this title, if the differences between the subject matter sought to
> be patented and the prior art are such that the subject matter as a whole would have been
> obvious at the time the invention was made to a person having ordinary skill in the art to which
> said subject matter pertains. Patentability shall not be negatived by the manner in which the
> invention was made.

3.   Claims 1-23 rejected under 35 U.S.C. 103(a) as being unpatentable over

Ferstenberg 5,873,071 in view of Wang 6,578,970.

As per claim 1, Ferstenberg 5,873,071 teaches a method for trading in securities,

the trading being carried out at a primary site according to information received

from market makers and traders ("Preferably, participants access this system for

submitting exchange orders and receiving exchange responses over network connections." Ferstenberg 5,873,071 col. 3 lines 58-60),

said information comprising quotes and orders for one or more instrument ("However, in the case of financial commodities, currently available are "quote feeds," which either broadcast all quotes/trades of financial commodity prices or are capable of responding to a price query only for one commodity at a time." Ferstenberg 5,873,071 col. 44 lines 38-42),

the method comprising the reception and storing of said information at the primary site ("In another aspect of the first embodiment, the electronic memory associated with the intermediary program further stores digital data representing a selected round of the electronic negotiation." Ferstenberg 5,873,071 col. 4 lines 58-65), and

using said information to create deals in said securities, said deals also being stored at the primary site ("repeating the previous two steps in order, each ordered repetition being a round of an electronic negotiation, until the e-agent programs accept all the amounts of commodities offered, the accepted amounts being final commodity amounts; and sending results electronic messages to computers of the participants, the results messages including digital data representing the final commodity amounts." Ferstenberg 5,873,071 col. 10 lines 2-8),

Ferstenberg 5,873,071 fails to teach that the method additionally comprising the use of a secondary site, that secondary site replicas of the orders and deals are stored that at a secondary site replicas of the orders and deals are stored and

that the deals stored at the secondary site being used by a corrective function to update the orders stored at the secondary site.

Wang 6,578,970 B1 teaches "In one embodiment of the present invention, these renewable host resources are provided in the form of a secondary or failover host computer that can be automatically configured and brought on line to replace a failing primary host computer." (Wang 6,578,970 B1 col. 5 lines 28-32),

"In another embodiment, this replication of data is performed by splitting off a mirrored copy of each volume of data of the primary host computer 110 that is mirrored to a corresponding volume of data that is accessible to the secondary host computer 120." (Wang 6,578,970 B1 col. 9 lines 49-54),

and "The replicated data may also be periodically updated, prior to a detected malfunction or failure of the primary host computer 110, to reflect any changes made to the data of the primary host computer 110 during operation." (Wang 6,578,970 B1 col. 10 lines 58-63)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Ferstenberg 5,873,071 to include the site failover of Wang 6,578,970 B1 in order to "support an electronic commerce site and provide the electronic commerce site with failsafe operation". (Wang 6,578,970 B1 abstract)

As per claim 2 Wang 6,578,970 B1 further teaches a method of claim 1, according to which the replicas stored at the secondary site are forwarded from the primary site, at which primary site the information on which the replicas are

based is first received from the market makers and traders. ("In another embodiment, this replication of data is performed by splitting off a mirrored copy of each volume of data of the primary host computer 110 that is mirrored to a corresponding volume of data that is accessible to the secondary host computer 120." Wang 6,578,970 B1 col. 9 lines 49-54)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Ferstenberg 5,873,071 to include the site failover of Wang 6,578,970 B1 in order to "support an electronic commerce site and provide the electronic commerce site with failsafe operation". (Wang 6,578,970 B1 abstract)

As per claim 3, Ferstenberg 5,873,071 further teaches a method of claim 1, wherein information received at the secondary site directly from the market makers and traders. ("In the preferred application of this invention to exchanges of financial commodities, and similarly for other fungible commodities, it is desirable that commodities be allocated such that the total amount of commodities exchanged is substantially maximized. Therefore, the electronic intermediaries of the preferred embodiment, to which the remainder of this description is generally directed, attempts to fairly allocate the maximum amounts of commodities. Ferstenberg 5,873,071 col. 15 lines 14-22)

Ferstenberg 5,873,071 fails to teach that the replicas are stored at the secondary site

Wang 6,578,970 B1 teaches "In another embodiment, this replication of data is performed by splitting off a mirrored copy of each volume of data of the primary host computer 110 that is mirrored to a corresponding volume of data that is accessible to the secondary host computer 120." (Wang 6,578,970 B1 col. 9 lines 49-54)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Ferstenberg 5,873,071 to include the site failover of Wang 6,578,970 B1 in order to "support an electronic commerce site and provide the electronic commerce site with failsafe operation". (Wang 6,578,970 B1 abstract)

As per claim 4, Ferstenberg 5,873,071 teaches an automated system for trading in securities, said system comprising, at a primary site:

• Automated means for receiving information from market makers and traders, said information comprising quotes and orders for at least one instrument, ("Preferably, participants access this system for submitting exchange orders and receiving exchange responses over network connections." Ferstenberg 5,873,071 col. 3 lines 58-60)

• Automated means for storing said information at the primary site, ("In another aspect of the first embodiment, the electronic memory associated with the intermediary program further stores digital data representing a selected round of the electronic negotiation." Ferstenberg 5,873,071 col. 4 lines 58-65)

• Automated means for creating deals using said received information, and automated means for storing said deals at the primary site, the system additionally comprising a secondary site, at which the system comprises ("repeating the previous two steps in order, each ordered repetition being a round of an electronic negotiation, until the e-agent programs accept all the amounts of commodities offered, the accepted amounts being final commodity amounts; and sending results electronic messages to computers of the participants, the results messages including digital data representing the final commodity amounts." Ferstenberg 5,873,071 col. 10 lines 2-8)

Ferstenberg 5,873,071 fails to teach

• automated means for storing replicas of the orders received and the deals created at the primary site,

• automated means for a corrective function for using the deals stored at the secondary site to update the orders stored at the secondary site.

Wang 6,578,970 B1 teaches:

"In another embodiment, this replication of data is performed by splitting off a mirrored copy of each volume of data of the primary host computer 110 that is mirrored to a corresponding volume of data that is accessible to the secondary host computer 120." (Wang 6,578,970 B1 col. 9 lines 49-54) and "The replicated data may also be periodically updated, prior to a detected malfunction or failure of the primary host computer 110, to reflect any changes made to the data of the primary host computer 110 during operation." Wang 6,578,970 B1 col. 10 lines 58-63)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Ferstenberg 5,873,071 to include the site failover of Wang 6,578,970 B1 in order to "support an electronic commerce site and provide the electronic commerce site with failsafe operation". (Wang 6,578,970 B1 abstract)

As per claim 5 Wang 6,578,970 B1 further teaches a system of claim 4, additionally comprising automated means for transmitting from the primary site to the secondary site the information on which the replicas at the secondary site are based. ("The computer system of claim 31 further comprising: a network director, coupled to the first host computer and the controller, that redirects, in response to an instruction from the controller, communications sent to a network address of the first host computer to a network address of the second host computer." Wang 6,578,970 B1 claim 32)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Ferstenberg 5,873,071 to include the site failover of Wang 6,578,970 B1 in order to "support an electronic commerce site and provide the electronic commerce site with failsafe operation". (Wang 6,578,970 B1 abstract)

As per claim 6 Wang 6,578,970 B1 further teaches a system of claim 4, additionally comprising automated means at the secondary site for receiving information directly from the market makers and traders on which the replicas

stored at the secondary site are based. ("After replicating the data of the primary host computer 110, the routine proceeds to step 240, wherein the site failover routine powers on the secondary host computer 120 and brings the secondary host computer 120 on line as an identical replacement to the primary host computer 110. Wang 6,578,970 B1 col. 9 lines 55-19)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Ferstenberg 5,873,071 to include the site failover of Wang 6,578,970 B1 in order to "support an electronic commerce site and provide the electronic commerce site with failsafe operation". (Wang 6,578,970 B1 abstract)

As per claim 7, Ferstenberg 5,873,071 teaches a method for use in the automated trading of securities, the trading being carried out at a primary site according to information received from market makers and traders, ("Preferably, participants access this system for submitting exchange orders and receiving exchange responses over network connections." Ferstenberg 5,873,071 col. 3 lines 58-60)

said information comprising quotes and orders for one or more instrument, ("However, in the case of financial commodities, currently available are "quote feeds," which either broadcast all quotes/trades of financial commodity prices or are capable of responding to a price query only for one commodity at a time." Ferstenberg 5,873,071 col. 44 lines 38-42)

the method comprising the reception and storing of said information at the primary site ("In another aspect of the first embodiment, the electronic memory associated with the intermediary program further stores digital data representing a selected round of the electronic negotiation." Ferstenberg 5,873,071 col. 4 lines 58-65)

and using said information to create deals in said securities, ("repeating the previous two steps in order, each ordered repetition being a round of an electronic negotiation, until the e-agent programs accept all the amounts of commodities offered, the accepted amounts being final commodity amounts; and sending results electronic messages to computers of the participants, the results messages including digital data representing the final commodity amounts." Ferstenberg 5,873,071 col. 10 lines 2-8)

said deals being stored at the primary site, ("repeating the previous two steps in order, each ordered repetition being a round of an electronic negotiation, until the e-agent programs accept all the amounts of commodities offered, the accepted amounts being final commodity amounts; and sending results electronic messages to computers of the participants, the results messages including digital data representing the final commodity amounts." Ferstenberg 5,873,071 col. 10 lines 2-8)

Ferstenberg 5,873,071 fails to teach;

that the method additionally comprising the use of a secondary site, at which secondary site replicas of the orders and deals are stored, that the deals stored at the secondary site being used by a corrective function to update the orders

stored at the secondary site and that the trading of securities is continued at the secondary site in case of a malfunction at the primary site, in which case the market makers and traders are prompted to submit new quotes to the secondary site.

Wang 6,578,970 B1 teaches;

"In another embodiment, this replication of data is performed by splitting off a mirrored copy of each volume of data of the primary host computer 110 that is mirrored to a corresponding volume of data that is accessible to the secondary host computer 120." (Wang 6,578,970 B1 col. 9 lines 49-54)

"The replicated data may also be periodically updated, prior to a detected malfunction or failure of the primary host computer 110, to reflect any changes made to the data of the primary host computer 110 during operation." (Wang 6,578,970 B1 col. 10 lines 58-63)

"In this embodiment, when a status report has not been received by the controller 160 at an expected interval, the controller 160 assumes that the primary host computer 110 has failed and responds appropriately. As previously described, when a failure is detected by the controller 160, the controller 160 may shut down the primary host computer 110 and configure the secondary host computer 120 to act in its stead." (Wang 6,578,970 B1 col. 8 lines 8-14)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Ferstenberg 5,873,071 to include the site failover of Wang 6,578,970 B1 in order to "support an electronic commerce site

and provide the electronic commerce site with failsafe operation". (Wang 6,578,970 B1 abstract)

As per claim 8 Wang 6,578,970 B1 further teaches a method of claim 7, according to which an automated function at the secondary site makes the determination that there has been a malfunction at the primary site, and that the trading should be continued at the secondary site. "In this embodiment, when a status report has not been received by the controller 160 at an expected interval, the controller 160 assumes that the primary host computer 110 has failed and responds appropriately. As previously described, when a failure is detected by the controller 160, the controller 160 may shut down the primary host computer 110 and configure the secondary host computer 120 to act in its stead." (Wang 6,578,970 B1 col. 8 lines 8-14)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Ferstenberg 5,873,071 to include the site failover of Wang 6,578,970 B1 in order to "support an electronic commerce site and provide the electronic commerce site with failsafe operation". (Wang 6,578,970 B1 abstract)

As per claim 9 Wang 6,578,970 B1 further teaches a method of claim 7, according to which an operator makes the determination that there has been a malfunction at the primary site, and that the trading should be continued at the secondary site. "For example, rather than utilizing relays 170 and 171 to

automatically power-off the primary host computer 110 and automatically power-on the secondary host computer 120, one or more of these steps may be performed manually." (Wang 6,578,970 B1 col. 10, lines 42-46)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Ferstenberg 5,873,071 to include the site failover of Wang 6,578,970 B1 in order to "support an electronic commerce site and provide the electronic commerce site with failsafe operation". (Wang 6,578,970 B1 abstract)

As per claim 10, Ferstenberg 5,873,071 teaches a method of claim 7, according to which primary site the information on which the replicas are based is first received from the market makers and traders. ("In the preferred application of this invention to exchanges of financial commodities, and similarly for other fungible commodities, it is desirable that commodities be allocated such that the total amount of commodities exchanged is substantially maximized. Therefore, the electronic intermediaries of the preferred embodiment, to which the remainder of this description is generally directed, attempts to fairly allocate the maximum amounts of commodities. Ferstenberg 5,873,071 col. 15 lines 14-22)

Ferstenberg 5,873,071 fails to teach the replicas stored at the secondary site are forwarded from the primary site.

Wang 6,578,970 B1 teaches

"In another embodiment, this replication of data is performed by splitting off a mirrored copy of each volume of data of the primary host computer 110 that is

mirrored to a corresponding volume of data that is accessible to the secondary

host computer 120." (Wang 6,578,970 B1 col. 9 lines 49-54)

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify the invention of Ferstenberg 5,873,071 to include the site

failover of Wang 6,578,970 B1 in order to "support an electronic commerce site

and provide the electronic commerce site with failsafe operation". (Wang

6,578,970 B1 abstract)

As per claim 11 Wang 6,578,970 B1 further teaches a method of claim 7,

according to which the replicas stored at the secondary site are based on

information received at the secondary site directly from the market makers and

traders. ("In another embodiment, this replication of data is performed by splitting

off a mirrored copy of each volume of data of the primary host computer 110 that

is mirrored to a corresponding volume of data that is accessible to the secondary

host computer 120." Wang 6,578,970 B1 col. 9 lines 49-54)

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify the invention of Ferstenberg 5,873,071 to include the site

failover of Wang 6,578,970 B1 in order to "support an electronic commerce site

and provide the electronic commerce site with failsafe operation". (Wang

6,578,970 B1 abstract)

As per claim 12, Ferstenberg 5,873,071 teaches an automated system for trading

in securities, said system comprising at a primary site:

• Automated means for receiving information from market makers and traders, said information comprising quotes and orders for at least one instrument, ("In the preferred application of this invention to exchanges of financial commodities, and similarly for other fungible commodities, it is desirable that commodities be allocated such that the total amount of commodities exchanged is substantially maximized. Therefore, the electronic intermediaries of the preferred embodiment, to which the remainder of this description is generally directed, attempts to fairly allocate the maximum amounts of commodities. Ferstenberg 5,873,071 col. 15 lines 14-22)

• Automated means for storing said information at the primary site, ("In another aspect of the first embodiment, the electronic memory associated with the intermediary program further stores digital data representing a selected round of the electronic negotiation." Ferstenberg 5,873,071 col. 4 lines 58-65)

• Automated means for creating deals using said received information, and automated means for storing said deals at the primary site, ("In another aspect of the first embodiment, the electronic memory associated with the intermediary program further stores digital data representing a selected round of the electronic negotiation." Ferstenberg 5,873,071 col. 4 lines 58-65)

Ferstenberg 5,873,071 fails to teach that the system additionally comprising a secondary site, at which the system comprises

• automated means for storing replicas of the orders received and the deals created at the primary site,

• automated means for a corrective function for using the deals stored at the secondary site to update the orders stored at the secondary site,

• automated means for determining that there has been a malfunction a the primary site such that the trading should be continued at the secondary site.

Wang 6,578,970 B1 teaches "In another embodiment, this replication of data is performed by splitting off a mirrored copy of each volume of data of the primary host computer 110 that is mirrored to a corresponding volume of data that is accessible to the secondary host computer 120." (Wang 6,578,970 B1 col. 9 lines 49-54),

"The replicated data may also be periodically updated, prior to a detected malfunction or failure of the primary host computer 110, to reflect any changes made to the data of the primary host computer 110 during operation." (Wang 6,578,970 B1 col. 10 lines 58-63)

and "In this embodiment, when a status report has not been received by the controller 160 at an expected interval, the controller 160 assumes that the primary host computer 110 has failed and responds appropriately. As previously described, when a failure is detected by the controller 160, the controller 160 may shut down the primary host computer 110 and configure the secondary host computer 120 to act in its stead." Wang 6,578,970 B1 col. 8 lines 8-14)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Ferstenberg 5,873,071 to include the site

failover of Wang 6,578,970 B1 in order to "support an electronic commerce site and provide the electronic commerce site with failsafe operation". (Wang 6,578,970 B1 abstract)

As per claim 13 Wang 6,578,970 B1 further teaches a system of claim 12, additionally comprising an automated function for prompting the market makers and traders to submit new quotes to the secondary site. ("After replicating the data of the primary host computer 110, the routine proceeds to step 240, wherein the site failover routine powers on the secondary host computer 120 and brings the secondary host computer 120 on line as an identical replacement to the primary host computer 110." Wang 6,578,970 B1 col. 9 lines 55-59)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Ferstenberg 5,873,071 to include the site failover of Wang 6,578,970 B1 in order to "support an electronic commerce site and provide the electronic commerce site with failsafe operation". (Wang 6,578,970 B1 abstract)

As per claim 14 Wang 6,578,970 B1 further teaches a system of claim 12 or 13, additionally comprising automated means for transmitting from the primary site to the secondary site the information on which the replicas at the secondary site are based. ("The computer system of claim 31 further comprising: a network director, coupled to the first host computer and the controller, that redirects, in response to an instruction from the controller, communications sent to a network address of

the first host computer to a network address of the second host computer." Wang 6,578,970 B1 claim 32)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Ferstenberg 5,873,071 to include the site failover of Wang 6,578,970 B1 in order to "support an electronic commerce site and provide the electronic commerce site with failsafe operation". (Wang 6,578,970 B1 abstract)

As per claim 15 Wang 6,578,970 B1 further teaches a system of claim 12 or 13, additionally comprising automated means at the secondary site for receiving information directly from the market makers and traders on which the replicas stored at the secondary site are based. ("After replicating the data of the primary host computer 110, the routine proceeds to step 240, wherein the site failover routine powers on the secondary host computer 120 and brings the secondary host computer 120 on line as an identical replacement to the primary host computer 110. Wang 6,578,970 B1 col. 9 lines 55-19)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Ferstenberg 5,873,071 to include the site failover of Wang 6,578,970 B1 in order to "support an electronic commerce site and provide the electronic commerce site with failsafe operation". (Wang 6,578,970 B1 abstract)

As per claim 16, Ferstenberg 5,873,071 teaches an automated corrective method

for use in an automated system for trading in securities, ("However, in the case

of financial commodities, currently available are "quote feeds," which either

broadcast all quotes/trades of financial commodity prices or are capable of

responding to a price query only for one commodity at a time." Ferstenberg

5,873,071 col. 44 lines 38-42)

Ferstenberg 5,873,071 fails to teach that the system information regarding orders

and deals from a primary trading site is passed to and stored at a secondary site,

and said corrective method using the deal information passed to the secondary

site to update the order information stored at the secondary site.

Wang 6,578,970 B1 teaches;

"In one embodiment, the data that is replicated at step 230 includes the operating

system, as well as any application programs and application program data of the

primary host computer 110. In this embodiment, each volume of data of the

primary host computer 110 is copied to a corresponding volume of data on a

storage device 135 that can be accessed by the secondary host computer 120

(e.g., a storage device 135 that can be accessed via port adapter 132B)." (Wang

6,578,970 B1 col. 9 lines 41-49) and

("The replicated data may also be periodically updated, prior to a detected

malfunction or failure of the primary host computer 110, to reflect any changes

made to the data of the primary host computer 110 during operation." Wang

6,578,970 B1 col. 10 lines 58-63)

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify the invention of Ferstenberg 5,873,071 to include the site

failover of Wang 6,578,970 B1 in order to "support an electronic commerce site and provide the electronic commerce site with failsafe operation". (Wang 6,578,970 B1 abstract)

As per claim 17, Ferstenberg 5,873,071 teaches an automated corrective method of claim 16, said method being used to monitor the information regarding deals in order to update the information regarding orders ("repeating the previous two steps in order, each ordered repetition being a round of an electronic negotiation, until the e-agent programs accept all the amounts of commodities offered, the accepted amounts being final commodity amounts; and sending results electronic messages to computers of the participants, the results messages including digital data representing the final commodity amounts." Ferstenberg 5,873,071 col. 10 lines 2-8)

Ferstenberg 5,873,071 fails to teach storing at the secondary site.

Wang 6,578,970 B1 teaches "The replicated data may also be periodically updated, prior to a detected malfunction or failure of the primary host computer 110, to reflect any changes made to the data of the primary host computer 110 during operation." (Wang 6,578,970 B1 col. 10 lines 58-63)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Ferstenberg 5,873,071 to include the site failover of Wang 6,578,970 B1 in order to "support an electronic commerce site and provide the electronic commerce site with failsafe operation". (Wang 6,578,970 B1 abstract)

As per claim 18 Wang 6,578,970 B1 further teaches an automated corrective method of claim 16, according to which the order information which is passed to the secondary site is passed via the deal information stored at the secondary site. ("In one embodiment, the data that is replicated at step 230 includes the operating system, as well as any application programs and application program data of the primary host computer 110. In this embodiment, each volume of data of the primary host computer 110 is copied to a corresponding volume of data on a storage device 135 that can be accessed by the secondary host computer 120 (e.g., a storage device 135 that can be accessed via port adapter 132B)." Wang 6,578,970 B1 col. 9 lines 41-49)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Ferstenberg 5,873,071 to include the site failover of Wang 6,578,970 B1 in order to "support an electronic commerce site and provide the electronic commerce site with failsafe operation". (Wang 6,578,970 B1 abstract)

As per claim 19, Ferstenberg 5,873,071 teaches an automated corrective method of claim 16, according to which copies of the orders and deals at defined intervals the orders are gone through against the background of said deals. ("E-agents 1 evaluates offers from the intermediary and generate counter-offers to the intermediary in order to arrive at an exchange of the commodities consistently with the participant's objective. In the preferred embodiment the

intermediated exchanges occur periodically, e.g., preferably every 90 minutes.
Ferstenberg 5,873,071 col. 14 lines 31-36)

Ferstenberg 5,873,071 fails to teach that the orders and deals are stored at the
secondary site, and that they are gone through against the background of said
deals.

Wang 6,578,970 B1 teaches "The replicated data may also be periodically
updated, prior to a detected malfunction or failure of the primary host computer
110, to reflect any changes made to the data of the primary host computer 110
during operation." (Wang 6,578,970 B1 col. 10 lines 58-63)

It would have been obvious to one of ordinary skill in the art at the time of the
invention to modify the invention of Ferstenberg 5,873,071 to include the site
failover of Wang 6,578,970 B1 in order to "support an electronic commerce site
and provide the electronic commerce site with failsafe operation". (Wang
6,578,970 B1 abstract)

As per claim 20 Ferstenberg 5,873,071 teaches an automated corrective means
for use in an automated system for trading in securities, in which system
information regarding orders and deals from a primary trading site is passed to
and stored at a secondary site, ("E-agents 1 evaluates offers from the
intermediary and generate counter-offers to the intermediary in order to arrive at
an exchange of the commodities consistently with the participant's objective. In
the preferred embodiment the intermediated exchanges occur periodically, e.g.,
preferably every 90 minutes. Ferstenberg 5,873,071 col. 14 lines 31-36)

Ferstenberg 5,873,071 fails to teach that said corrective means using the deal information passed to the secondary site to update the order information stored at the secondary site.

Wang 6,578,970 B1 teaches "For example, referring to FIG. 1, the controller 160 can instruct the storage processor 133 to modify the assignment of those storage devices 135 assigned to port adapter 132A so that they are instead assigned to port adapter 132B. With this modification, no data replication is required, and the secondary host computer 120 can directly access the data of the primary host computer 110." Wang 6,578,970 B1 col. 12 lines 3-10)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Ferstenberg 5,873,071 to include the site failover of Wang 6,578,970 B1 in order to "support an electronic commerce site and provide the electronic commerce site with failsafe operation". (Wang 6,578,970 B1 abstract)

As per claim 21 Ferstenberg 5,873,071 teaches an automated corrective means of claim 20, said means monitoring the information regarding deals in order to update the information regarding orders ("E-agents 1 evaluates offers from the intermediary and generate counter-offers to the intermediary in order to arrive at an exchange of the commodities consistently with the participant's objective. In the preferred embodiment the intermediated exchanges occur periodically, e.g., preferably every 90 minutes. Ferstenberg 5,873,071 col. 14 lines 31-36)

Ferstenberg 5,873,071 fails to teach storage at the secondary site in order to update the information regarding orders stored at the secondary site.

Wang 6,578,970 B1 teaches "The replicated data may also be periodically updated, prior to a detected malfunction or failure of the primary host computer 110, to reflect any changes made to the data of the primary host computer 110 during operation." (Wang 6,578,970 B1 col. 10 lines 58-63)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Ferstenberg 5,873,071 to include the site failover of Wang 6,578,970 B1 in order to "support an electronic commerce site and provide the electronic commerce site with failsafe operation". (Wang 6,578,970 B1 abstract)

As per claim 22 Wang 6,578,970 B1 further teaches a automated corrective means of claim 20, which lets the order information which is passed to the secondary site pass via the deal information stored at the secondary site. . ("In one embodiment, the data that is replicated at step 230 includes the operating system, as well as any application programs and application program data of the primary host computer 110. In this embodiment, each volume of data of the primary host computer 110 is copied to a corresponding volume of data on a storage device 135 that can be accessed by the secondary host computer 120 (e.g., a storage device 135 that can be accessed via port adapter 132B)." Wang 6,578,970 B1 col. 9 lines 41-49)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Ferstenberg 5,873,071 to include the site failover of Wang 6,578,970 B1 in order to "support an electronic commerce site and provide the electronic commerce site with failsafe operation". (Wang 6,578,970 B1 abstract)

As per claim 23 Ferstenberg 5,873,071 teaches an automated corrective means of claim 20, and, at defined intervals, goes through said orders against the background of said deals. ("E-agents 1 evaluates offers from the intermediary and generate counter-offers to the intermediary in order to arrive at an exchange of the commodities consistently with the participant's objective. In the preferred embodiment the intermediated exchanges occur periodically, e.g., preferably every 90 minutes. Ferstenberg 5,873,071 col. 14 lines 31-36)

Ferstenberg 5,873,071 fails to teach storing copies of the orders and deals at the secondary site

Wang 6,578,970 B1 teaches "The replicated data may also be periodically updated, prior to a detected malfunction or failure of the primary host computer 110, to reflect any changes made to the data of the primary host computer 110 during operation." Wang 6,578,970 B1 col. 10 lines 58-63)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Ferstenberg 5,873,071 to include the site failover of Wang 6,578,970 B1 in order to "support an electronic commerce site

and provide the electronic commerce site with failsafe operation". (Wang 6,578,970 B1 abstract)

Conclusion

4.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Langseth (US 6,662,195 B1) shows a data warehousing system stores the raw data population for an underlying delivery system for a personal intelligence network that actively delivers highly personalized and timely informational and transactional data collects and distributes e-mail and other content from a hub-and-spoke style source architecture. The architecture of the data storage system includes a data distribution depository warehousing the raw data, and a data distribution control server monitoring the state of the data for fault and other conditions. For instance, data may revert to the next-most recent state when a corruption is detected. Furthermore, data may be collected continuously but the data image of the repository may be frozen during subscriber inquiries, to avoid inconsistent output.

Weber (US 7,305,362 B2) shows a method of determining an estimate of the market value of a traded unit of a financial instrument, and apparatus for carrying out the method, said instrument comprising a fund of individually priced securities and the exact composition of said fund being withheld from the market, said method comprising selecting a plurality of mutually independent risk factors, each

risk factor being representative of market behavior estimated to be significant to the price behavior of the traded unit, obtaining information from a third party holding information regarding the composition of said fund regarding the actual significance of said risk factors to the value of said traded unit, and calculating a value for said traded unit on the basis of said significances.

Kramer (US 5,038,284) shows a central computer equipped with communications hardware and specially designed software receives transaction data from personal transaction stations operated by traders, sends back verification information to the traders, reconciles all trades, informs traders when an error occurs, generates complete records of all transactions, reports price and volume data to quote vendors, provides numerous reports which analyze trading activity to detect potential regulatory violations, creates a complete real-time backup copy of all data, and provides intraday profit, loss, risk, and margin information to exchange and Futures Commission Merchant personnel.

Stewart (US 5,715,453) shows a web server computer system including a transaction processor that reads a configuration file to determine how to handle incoming function calls to retrieve dynamic data by querying a data source. A number of language processors are provided for handling the possible different types of function calls that query dynamic data. When a function call within a web page corresponding to a query for dynamic data is encountered, the transaction processor determines from the configuration data which language processor will

handle this specific function call, and passes the function call to the appropriate language processor. The language processor processes the function call, generates the appropriate query, obtains the dynamic data from the appropriate data source, and passes the data back to the transaction processor. The transaction processor then inserts the dynamic data into the web page to be sent to the requesting user.

Moy (US 5,230,048) shows a multitask multiuser system provides for efficient transfer of data from a remote data base to individual subscribers and has particular utility in the distribution of stock market data. A primary provider distributes the incoming data directly to user tasks or to an inquiry provider or a monitor provider. The inquiry provider responds to specific inquiries by users for information in the data base. The monitor provider maintains lists of information which are being monitored by the host computer for individual users. The inquiry provider and the monitor provider do not repeat requests to the remote data base where a similar request is already pending from another user. Data transfer paths between task are established by a code module which may be linked to any of the tasks. The transfer paths are established using information from a configuration list and they are monitored by the operating system through a wait list established for each user tasks. Providers in the system may establish subscriber lists through the code module.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald C. Vizvary whose telephone number is 571-270-3268. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ella Colbert can be reached on 571-272-6741. The fax phone number for the organization where this application or proceeding is assigned is 571-270-4268.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ella Colbert/
Primary Examiner, Art Unit 3696

Gerald Vizvary
Patent Examiner, A.U. 3696
February 27, 2008